

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: SEARSBORO TELEPHONE COMPANY, INC., AND KILLDUFF TELEPHONE COMPANY	DOCKET NOS. SPU-03-6 TF-03-132 WRU-03-57-478
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**ORDER APPROVING JOINT APPLICATION FOR DISCONTINUANCE OF
SERVICE, AMENDING CERTIFICATE, GRANTING PARTIAL TRANSFER OF
CERTIFICATE, APPROVING TARIFF, AND GRANTING WAIVER**

(Issued September 12, 2003)

On April 29, 2003, Searsboro Telephone Company, Inc. (Searsboro Telephone), and Killduff Telephone Company (Killduff Telephone) filed with the Utilities Board (Board) a joint application for approval of discontinuance of service and a partial transfer of certificate pursuant to Iowa Code § 476.20(1) (2003). The filing was identified as Docket No. SPU-03-6.

Searsboro Telephone is a non-rate regulated independent telephone company that provides local exchange service to the Killduff and Searsboro, Iowa, exchanges. Currently, the Searsboro exchange has approximately 210 access lines; the Killduff exchange has approximately 190 access lines. Killduff Telephone is a recently-formed Iowa corporation that intends to provide local exchange and exchange access services to the Killduff exchange. Killduff Telephone has not previously been certified to provide service in any state.

The applicants state that they have entered into an asset purchase agreement whereby Killduff Telephone will acquire the assets of Searsboro Telephone so that Killduff Telephone may begin to provide service to the Killduff exchange. The joint application requests approval for the discontinuance of service for the Killduff exchange by Searsboro Telephone as well as the partial transfer to Killduff Telephone of that portion of Searsboro Telephone's certificate of public convenience and necessity which currently allows Searsboro Telephone to provide service to the Killduff exchange.

In support of this request, Killduff Telephone states that it will abide by all applicable statutes, orders, rules, and regulations adopted by the Board for local exchange carriers. Killduff Telephone also states it will adopt the previously-approved dialing parity plan of Searsboro Telephone and will permit customers to obtain interLATA and intraLATA interexchange services from other carriers. Killduff Telephone states that it will effectively adopt the service area boundaries of the Killduff exchange and indicates it will serve all eligible customers in the exchange. Killduff Telephone also filed a proposed tariff containing local exchange rates that match the current rates listed in the Searsboro Telephone tariff. Killduff Telephone asserts that it is well qualified managerially, technically, and financially to provide telecommunications service to the Killduff exchange.

The parties state that the public interest is served by the transfer through the efficient provision of high quality telecommunications services to rural customers and

that there will be direct benefits to the customers of the Killduff and Searsboro exchanges. The parties further state that the transaction will increase operating efficiency and effectiveness by allowing Killduff and Searsboro to each focus on serving a single telephone exchange, rather than spreading limited personnel and management resources over two exchanges.

On May 28, 2003, the Board issued an order docketing this application for further investigation. That order required both parties to clarify how the separation of these two exchanges into separate companies would increase the efficiency of service and benefit consumers in each exchange.

On June 26, 2003, the parties filed a joint response to the Board's May 28, 2003, order. In that response, the parties indicate that the new management for Killduff Telephone intends to make several improvements to the facilities serving the Killduff exchange, including the replacement of switches which will result in the availability of enhanced features and improve the reliability of service in the Killduff exchange. Killduff Telephone also states that it plans to build a fiber ring structure throughout the exchange, which will enhance the redundancy and reliability of the network as well as extend high-speed digital transmission capabilities to areas not currently served by a fiber ring. Searsboro Telephone states that it intends to use the economic gains from the sale of the Killduff exchange to make upgrades to its equipment. The planned upgrades will permit the company to offer additional and enhanced services in the Searsboro exchange.

On July 1, 2003, the parties filed with the Board a copy of the notice which was sent to all local exchange carriers on the Board's mailing lists to inform them of these changes. On July 24, 2003, the Board issued an order extending the time for determination and requiring the parties to notify all interexchange carriers pursuant to 199 IAC § 22.14(4). No objections to the requests have been received.

Iowa Code § 476.29(2) (2003) states that a local exchange carrier "shall not be denied a certificate if the board finds that the applicant possesses the technical, financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with the public interest." The Board has reviewed the request by Killduff Telephone and finds the necessary technical, financial, and managerial abilities to provide local exchange service in the Killduff exchange have been demonstrated. The parties have clarified how consumers will benefit from the transaction between Searsboro Telephone and Killduff Telephone through the planned upgrades to the existing facilities in both exchanges. Therefore, the Board finds it is in the public interest to grant Killduff Telephone's request for a certificate of public convenience and necessity.

The Board has also reviewed the proposed tariff filed by Killduff, identified as Docket No. TF-03-132, and finds that it substantially complies with Board rules for the filing and processing of tariff pages. The tariff contains rates for both business and residential customers and notice was provided to all affected carriers.

The Board will also approve the parties' joint request to amend Searsboro Telephone's certificate to reflect the removal of the Killduff exchange. An amendment to Searsboro Telephone's certificate (Certificate No. 0116) is being issued concurrently with this order and will become effective upon the filing of Searsboro Telephone's amended tariff.

On September 2, 2003, the parties filed a request for a waiver of 199 IAC 22.23(2) regarding individual customer verification rules for unauthorized changes in telecommunication services. The waiver request was identified as Docket No. WRU-03-57-478.

To grant this waiver, the Board must find, based on clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule are not specifically mandated by statute, and 4) subsequently equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that a waiver of 199 IAC 22.23(2) should be granted based on the Board's review of the information provided by Searsboro Telephone and Killduff Telephone. The Board finds that it would be an undue hardship for Killduff Telephone to obtain individual authorization verifications for the change in service providers from each of Searsboro Telephone's customers in the Killduff exchange.

The Board also finds that the waiver will not affect the substantial legal rights of any person and that equal protection of the public health, safety, and welfare have been afforded since all of Searsboro Telephone's customers will receive notice of Killduff Telephone's service in the Killduff exchange.

Finally, the parties stated that a waiver of the Federal Communications Commission's (FCC's) study area requirements will be necessary in connection with this transaction. It has been FCC's policy to grant those waiver petitions that have the approval of the state regulatory agency. The Board affirmatively states that it does not object to the parties' request that a study area waiver be granted by the FCC.

IT IS THEREFORE ORDERED:

1. The joint request filed by Searsboro Telephone Company, Inc., and Killduff Telephone Company on April 29, 2003, for a partial transfer of Searsboro Telephone Company, Inc.'s, certificate of public convenience and necessity is approved.
2. An order amending Certificate No. 0116, issued to Searsboro Telephone Company, Inc., on September 29, 1992, is being issued concurrently with this order and will become effective upon the amendment of its existing tariff.
3. A certificate, identified as Certificate No. 0272, is being issued to Killduff Telephone Company concurrently with this order.

4. The tariff filed by Killduff Telephone Company, filed on April 29, 2003, identified as Docket No. TF-03-132, is approved effective upon the filing of a new exchange map of the Killduff exchange which also reflects the effective date of the transaction.

5. Searsboro Telephone Company, Inc., shall file a tariff revision reflecting the removal of the Killduff exchange from its tariff within 30 days of the date of this order.

6. The joint request by Searsboro Telephone Company, Inc., and Killduff Telephone Company for a waiver of 199 IAC 22.23(2), the verification requirement for unauthorized changes in telecommunications service, is granted.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 12th day of September, 2003.